TRUSTS — CREATION AND VALIDITY — ANNUITY CONDITIONED UPON CONTINUED SEPARATION FROM HUSBAND. — The testator by his will directed trustees to pay an annuity to A, his mistress, provided and so long as she should not return to live with her present husband and should not remarry. A was living apart from her husband at the time of the execution of the will and the death of the testator. *Held*, that the trust be carried out according to its terms. *Sparks* v. *Southall*, 54 L. J. 362.

Conditions in testamentary dispositions in limited restraint of marriage are not void as contrary to public policy. *Jenner* v. *Turner*, 16 Ch. D. 188; *Reuff* v. *Coleman*, 30 W. Va. 171, 3 S. E. 597. A testator who leaves a fund in trust for a legatee "during such period as she shall remain unmarried" is understood not to be aiming at a restraint of marriage, but rather to providing for the support of the legatee until such time as she shall be married. *Jones* v. *Jones*, 1 Q. B. D. 279; *Trenton Trust Co.* v. *Armstrong*, 70 N. J. Eq. 572, 62 Atl. 456. But a bequest to a married woman living with her husband, to take effect upon her separation from him (by his death or otherwise), may well be frowned upon as tending to disturb the harmony of the marital relation. *In re Moore*, 39 Ch. D. 116; *Conrad* v. *Long*, 33 Mich. 78. Yet even such bequests have been held valid when it is clear that the testator's sole motive was to provide for the legatee in case she should be left alone. *Thayer* v. *Spear*, 58 Vt. 327, 2 Atl. 161; *Coe* v. *Hill*, 201 Mass. 15, 86 N. E. 949. In the principal case, the woman was not living with her husband at the time of the execution of the will nor at the testator's death, and, in such a situation, courts will generally impute to the testator an intention primarily to provide the legatee with maintenance until some spouse should undertake that duty. *In re Charleton*, 55 Sol. J. 330; *Dusbiber* v. *Melville*, 178 Mich. 601, 146 N. W. 208. The further fact in the principal case that the beneficiary was the testator's mistress is not, in the absence of statute, sufficient to make the bequest void as against public policy. *Sunderland* v. *Hood*, 13 Mo. App. 232. See PAGE, WILLS, § 24.

TRUSTS — CREATION AND VALIDITY — *CESTUI QUE TRUST* AS TRUSTEE OF A SPENDTHRIFT TRUST. — The testatrix devised the residue of her property to her executor, impressed with a spendthrift trust, the income to be paid to her husband for his life and then to her two children. The husband was named as sole executor. Although no misconduct on the part of the executor was shown, it was sought to declare the trust invalid. *Held*, that the trust was valid. *In re Fox's Estate*, 107 Atl. 863 (Pa.).

Spendthrift trusts under which the creator deprives himself of all power over the principal have always been valid in Pennsylvania. *Rife* v. *Geyer*, 59 Pa. St. 393; *Shankland's Appeal*, 47 Pa. St. 113. Where, however, the sole trustee is also *cestui que trust* for life, it has been said that during his life there is a merger of the legal and equitable estates. See *Wills* v. *Cooper*, 1 Dutch. (N. J.) 137, 164; *Rose* v. *Hatch*, 125 N. Y. 427, 431, 26 N. E. 467, 468. But where one of several trustees is also *cestui que trust* for life, it is clear there is no merger. *Story* v. *Palmer*, 46 N. J. Eq. 1, 18 Atl. 363. See *Robertson* v. *de Brulatour*, 111 App. Div. 882, 902, 98 N. Y. Supp. 15, 28. Likewise there is no merger where one of several *cestuis que trustent* is himself sole trustee. *Woodward* v. *James*, 115 N. Y. 346, 22 N. E. 150. A merger, then, results only where all legal and equitable rights under the trust are settled upon one person, so that no one can question his disposition of the property. Where, as in the principal case, equitable remainders are created which limit the trustee-*cestui's* power of disposition, there is, by the weight of authority, no merger during his life. *Nellis* v. *Rickard*, 133 Cal. 617, 66 Pac. 32; *Losey* v. *Stanley*, 147 N. Y. 560, 42 N. E. 8. See *Spengler* v. *Kuhn*, 212 Ill. 186, 193, 72 N. E. 214, 217. In view of the prevalence of spendthrift trusts in those states where they are valid, there would seem to be no reason for holding that because a man is *cestui que*